

# Code of Conduct

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### Responsible Office

Student Development Campus Life

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## I. Preface

A. **Rationale**

The members of the Montclair State University community recognize that the development of responsible student behavior and conduct is fostered by example, counseling, guidance, admonition and by adherence to University policies and regulations.

Montclair State University is committed to the overall educational and personal growth of its students. In order to facilitate this growth most effectively, it is essential to maintain an appropriate environment. Thus, the University encourages the cooperation of all members of the campus community, both in and out of the classroom and through online communities. To that end, the University establishes this set of policies, standards of behavior, regulations, procedures, sanctions and appeal processes. It is intended to prevent, limit and correct actions that may impede, obstruct or damage the educational environment, and threaten the maintenance of order. All students are expected to make themselves familiar with this code. Unfamiliarity with the code is not grounds for failing to live up to the expectations set forth within the code. While it is the goal of the disciplinary process to educate students as to the purpose and importance of abiding by the prescribed code of conduct, the University may also issue sanctions as are appropriate and necessary to ensure continued and/or future adherence to this code. This document and supporting materials have been developed to guarantee procedural fairness to students when there has been an alleged failure to abide by Montclair States policies and regulations. Procedures may vary in formality given the gravity and nature of the offense and the sanctions that may be applied. Terms and prohibited conduct not specifically defined here will be defined with reference to New Jersey Statutes.

B. **Commitment to Diversity**

Montclair State University is committed to equal student access to all campus benefits and services without regard to: race, creed, color, national origin, ancestry, age, marital status, affectional or sexual orientation, familial status, disability, nationality,

sex, gender identity or expression, or any other characteristic protected from discrimination by the New Jersey Law Against Discrimination (N.J.S.A. 10:5-4). In order to foster an atmosphere of respect, understanding and goodwill among all members of our diverse campus community, the University will regard differences of race, creed, color, national origin, ancestry, age, marital status, affectional or sexual orientation, familial status, disability, nationality, sex, gender identity or expression, or any other characteristic protected from discrimination by the New Jersey Law Against Discrimination, N.J.S.A. 10:5-4 as strengths to be honored, not mocked or derided. Thus, the University encourages all members of the community to behave in ways that enhance our diverse, multi-ethnic, and multi-cultural society.

#### C. Standard of Evidence

A general principle in all matters of student discipline will be that the University may base its determinations on a preponderance of the information ( i.e. it is more likely than not or a subtle conviction based upon the facts presented). In cases of misconduct where a sanction may be assessed, or in which a student so requests, the student will be informed in writing of the allegations and charges, will be given an opportunity to refute them, and will be afforded an avenue to appeal an adverse decision.

#### D. Authority

This code of student conduct applies to incidents that occur on the University's Campus, at any University-related facility, at any University event, between University students who utilize computer or other equipment located on the University campus or at University related facilities. University events include all athletic, academic, and social events sponsored by any University-related organization, whether on or off campus. Off-campus misconduct may be subject to the authority of the University and addressed through its conduct procedures if a student engages in prohibited conduct under such circumstances that reasonable grounds exist for believing that the accused student poses a threat to the life, health or safety of any member of the University community or to the property of the University. In addition, if the conduct substantially interferes in the University's pursuit of its educational mission, the discharge of its basic responsibilities to maintain an orderly educational atmosphere, and to function without substantial interruption as an institution of higher learning each student will be responsible for his/her conduct from the time of enrollment through the actual awarding of a degree. This includes the time before classes begin or after classes end each semester.

Subject to the protections afforded to students under the First Amendment, the Code may be enforced by the University with regard to behavior conducted online, via email or other electronic medium. Students should also be aware that online postings may subject a student to alleged conduct violations if evidence of policy violations is posted online. The University may take action if and when such information is brought to the attention of University officials. However, protected free expression will not be subject to this Code.

#### E. Complicity

A student will not, through act or omission, assist another student, individual, or group in committing or attempting to commit a violation of the University's Code of Conduct. A student who has knowledge of another individual committing or attempting to commit a violation of the Code of Conduct is required to remove him or herself from the situation, and failure to do so when reasonable under the circumstances may be the basis for a violation of this policy. Furthermore, attempted violations of, or being an accessory to any act prohibited by the Code of Conduct will be considered the same as a completed violation.

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## II. Glossary of Terms

**Administration or staff** — any person who currently holds a non-faculty appointment within the University. This does not include faculty who serve as department chairs.

**Alleged Victim** — a member of the University community who alleges that they have suffered personal harm or injury as a result of an alleged violation(s) of this Code.

**Appeal Officer** — any University Administrator who is charged with hearing and determining student appeals from a University Panel Hearing or a University Administrative Hearing based on reviewable criteria. In cases involving Harassment/Title IX, the appeal will be heard by an Appeal Panel.

**Business day** — any day when the University offices are open for business. Any documents that are sent on non-business days will not be viewed as received until the following business day.

**Coercion** — persuading someone to do something by using verbal and/or physical force or threats.

**Complainant** — any member of the University community who is a current student, Faculty or administrator/staff who has elected to serve as the complaining party in Hearings or Conferences conducted under this Code. Additionally, the University reserves the right to act as the complainant in any case. This includes the University itself in cases that concern but, are not limited to alleged violations of harassment or dating, sexual or relationship misconduct.

**Conduct Conference Meeting (CCM)** — initial meeting with a University administrator to discuss the process and options for the student. Only the accused student and conduct officer will attend this meeting.

**Conduct/Hearing Officer** — any member of the University who has been trained to deal with violations of the Code of Conduct (ex. Community Directors, Panel members, etc...) and to impose sanctions upon any student(s) who violate the University's Code.

**Consent** — Consent must be informed, voluntary and mutual, and can be withdrawn at any time. There is no consent when there is force, expressed or implied, or when coercion, intimidation, threats, or duress is used. Consent to a sexual act is based upon active, informed, freely decided choice to participate in sexual contact, intercourse, and consent cannot be assumed or implied by silence or the absence of physical or verbal resistance. It is an affirmative, unambiguous and conscious decision. Consent for one type of sexual act does not imply consent to other form and must be ongoing throughout a sexual encounter. Past consent to sexual activity does not imply ongoing future consent with that person or consent to that same activity with another person. If a person is mentally or physically incapacitated or impaired so that such person cannot understand the fact, nature or extent of the sexual situation, there is no consent; this includes, incapacitation or impairment by use of alcohol and/or drug consumption that meets this standard, or being asleep or unconscious.

**Dating Violence** — Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim is dating violence. The existence of such a relationship shall be determined based on a consideration of the following three factors: (1) the length of the relationship; (2) the type of relationship; and (3) the frequency of interaction between the persons involved in the relationship.

**Director of Student Conduct** — the person designated by the Dean of Students to be responsible for the administration of the University Code of Conduct and all procedures related to said administration. The Director will develop policies for the administration of the student conduct system and procedural rules for the conduct of Panel Hearings that are consistent with provisions of the Student Code.

**Domestic Violence** — a pattern of abusive behavior in any relationship that is used by one partner to gain or maintain power and control over another intimate partner. Domestic violence can be physical, sexual, emotional, economic, or psychological actions or threats of actions that influence another person. This may include but is not limited to, any behaviors that intimidate, manipulate, harass, assault, humiliate, isolate, frighten, terrorize, coerce, threaten, blame, hurt, injure, or wound another. Domestic violence also includes action toward the victim/reporting member that constitutes violent misdemeanor and felony offenses committed by the victim's current or former spouse, current or former cohabitant, person similarly situated under domestic or family violence law, or anyone else protected under domestic or family violence law (current or former spouse or intimate partner, or a person with whom someone shares a child or another person who is a present or former household member).

**Faculty** — any person hired by the University to conduct classroom or teaching activities or who holds a current academic appointment within the University.

**Legal Counsel/attorney** — a person who holds a JD, LLB or LLM degree from an accredited college or university, who has passed a bar exam, and is not a member of the University community.

**Member of the University community** — means any student, faculty, administration or staff member at the University.

**Persona Non Grata (PNG)** Latin for “an unwelcome person” Any individual prohibited from visiting an area is considered PNG. Individuals who receive this status are subject to either revocation of visitation in the residence halls or all University premises. Individuals who are not currently registered at the University who violate any policy will be subject to this status. Individuals classified as non-students who seek to enroll in the University in the future will have to address the alleged violation prior to gaining admittance/reentry to the University; however, the removal of the PNG status is subject to approval and not guaranteed. Montclair State University is not under any obligation, legal or otherwise, to remove this status or grant meetings to discuss this status. It will be the sole discretion of the Director of Student Conduct to review any requests.

**Policy** — means the written regulations of the University as found in, but not limited to, the University Code of Conduct, Residence Life Handbook, the University web page and computer use policy, and Graduate/Undergraduate Catalogs

**Reckless intent** — conduct which one should reasonably be expected to know would create a substantial risk of harm to persons or property

**Respondent** — any student who has been accused of an act prohibited under this Code.

**Sexual Assault** any actual or attempted sexual contact with another person without that person's Consent. Sexual assault, includes but is not limited to, intentional touching of another person's intimate parts without that person's Consent; intentional sexual contact without that person's Consent; coercing, forcing or attempting to coerce or force a person to touch another person's intimate parts without that person's Consent; penetration, no matter how slight, without Consent of the vagina or anus of a person by any body part of another person or by an object; penetration, of the mouth of a person by a sex organ of another person without that person's Consent.

**Stalking** — repeatedly maintaining a visual or physical proximity to a person; directly, indirectly, or through third parties, by any action, method, device, or means, following, monitoring, observing, surveilling, threatening, or communicating to or about, a person, or interfering with a person's property; repeatedly committing harassment against a person; or repeatedly conveying, or causing to be conveyed, verbal or written threats or threats conveyed by any other means of communication or threats implied by conduct or a combination thereof directed at or toward a person; or such other course of conduct directed at a specific person that would cause a reasonable person to fear for her/his or other's safety, or to suffer substantial emotional distress.

**Student** includes all persons taking courses at the University, either full time or part time, pursuing undergraduate, graduate, or professional studies. Persons who withdraw after allegedly violating the Student Code and who are not officially enrolled for a particular term, but who have a continuing relationship with the University are considered students. In addition, any person for whom the University maintains educational records, as defined by the Family Educational Rights and Privacy Act of 1974 and related regulations, and who has not yet been awarded their degree from the University. Any individual who is not registered for classes at the time of a reported violation is viewed as a non-student and subject to PNG status (see PNG).

**University** — means Montclair State University and all of its undergraduate, graduate and professional schools and colleges, divisions, and programs.

**University Administrative Hearing (UAH)** hearing option where only the student charged with a violation meets with a Conduct Officer so a case outcome can be rendered. Only the accused student, conduct officer, and University Advisor may be present.

**University Advisor** — a member of the University community who has been selected by a respondent or by a complainant to assist them in hearings or conferences conducted under this Code's stated processes. University advisors who hold a law degree may not act in the scope of a legal advisor. An advisor cannot be related to the student going through the process; examples of individuals who might serve as advisors would be a student's academic advisor, a professor/administrator they know well, etc. In cases involving Dating, Relationship or Sexual Misconduct or Violence (Title IX related incident), the advisor can be any individual of the student's choice, including an attorney or family member.

**University Panel Hearing (UPH)** — hearing option where the charged student is brought before a panel consisting of faculty, administrators and students to determine the outcome of a case. Student can have either a University Advisor or a Legal counsel present but must speak for him/herself. Witnesses to the event can be questioned.

**University premises** — for purposes of this Code, means buildings or grounds owned, leased, operated, controlled or supervised by the University.

**University sponsored activity** — any academic, co-curricular, extra-curricular or other activity on or off campus, which is initiated, aided, authorized or supervised by the University or University sanctioned organizations or personnel.

### III. Procedural Standards

For all reports, including cases of Dating, Relationship, or Sexual Misconduct a student who makes a report to following offices will have confidentiality: Counseling and Psychological Services (CAPS), University Health Center (UHC), the Center for Social Justice and Diversity, and/or any professional religious leader/clergy. [montclair.edu/sexual-harassment/sexual-harassment-complaint-procedures-students/](https://montclair.edu/sexual-harassment/sexual-harassment-complaint-procedures-students/)

Montclair State University is committed to the principles of due process and adheres to fair and reasonable procedural standards that are equitably applied in the adjudication of student discipline cases. Accordingly, the University affords the following rights to all students:

- A) To be presumed not responsible until found responsible by a preponderance of information;
- B) To have the discipline matter at hand decided by an impartial conduct officer or hearing panel, excluding any person who has a conflict of interest in the proceeding at hand;
- C) Documents related to the incident will be read to the student, verbatim by the conduct officer, during the scheduled Conduct Conference Meeting and/or panel hearing. Students have the option to request copies of documents regarding any charges and are required to pay the University a photocopy fee. All documents will be redacted to remove information that is confidential under the New Jersey Open Public Records Act and the Family Educational Right to Privacy Act. Students will be charged \$0.50 per page for copying/redacting with the total cost being billed to the student's University account. Copies of University documents will be available in the Office of the Dean of Students for two weeks for pick-up and then mailed to the home address listed for the student. **FERPA** requires the University to provide copies of such documents within 45 days from receipt of the request, however, any request will not delay the conduct process. Students must contact University Police directly to obtain police records. Students may request transcribed copies of hearing recordings. Transcription of hearing recordings are priced based upon rates determined by University-approved transcription vendor. *Please note that transcription services can be expensive. Costs may range from \$50.00 to more than \$400.00.*
- D) Access to advice by an individual of their choosing including an attorney or University Advisor. Such advisors may not speak at a hearing on behalf of the student charged, or appear in lieu of the student. Additionally, all University Advisors or attorneys are limited to advising accused students or alleged victims to answer or not answer a question only. However, counsel or advisers may assist a student prior to any conduct process and may assist the student afterwards, as well with any applicable appeal. A student who wishes to have an attorney as an advisor present at a hearing must inform the University Director of Student Conduct, or his/her designee, in writing, by fax or by electronic mail at least two business days prior to a hearing. If the respondent informs the University that an attorney will be present at the hearing, the complainant may be represented by an attorney of their choosing and legal counsel for the University may also be present. University Advisers may attend either Panel Hearings or Administrative Hearings, however, legal counsel would be limited to only attending Panel Hearings. In cases involving Dating, Relationship, or Sexual Misconduct or Violence charges, legal counsel or advisor is allowed at any proceeding. It is the responsibility of the student to make sure their University Advisor/Legal Counsel is present. Specific availability for either University Advisor or Legal Counsel will not be sufficient grounds for postponing the conduct process.

- E) The complainant and respondent will be given the opportunity to testify, to present witnesses, and to present to the Hearing Panel written questions for the University representative presenting the charges to review and approve for any participants. Time



limits for presentation/questioning/etc... may be imposed during the process. The complainant and respondent may remain silent in a University proceeding. Such decision will not be used against the complainant and respondent but a violation of the Student Code may be found based upon the other information presented. The complainant may be called as a witness by the University representative presenting the charges.

F) In all cases, the Hearing Panel will not consider statements against the complainant and respondent until they have been advised of their content and the names of those who made them. The complainant and respondent have the right to rebut such statements.

G) A list of all witnesses that the complainant and respondent wish to testify at the hearing must be submitted in writing to the Director of Student Conduct at least two business days prior to the hearing. The complainant and respondent are responsible for the attendance of witnesses at the hearing. Witnesses are considered individuals who have direct knowledge of the incidents or charges under investigation. Character witnesses will not be permitted.

H) The Code of Conduct identifies the process for hearings. The University may vary procedures upon determining that changes to law or regulation require modification and ensure that due process is provided to all parties. Any question of interpretation or application of the University's Code of Conduct will be referred to the Dean of Students or designee for final determination. Further, in accordance with existing statutes, especially the N.J. Open Records Act, student disciplinary records are confidential records. The Student Right-to-Know and Campus Security Act (Clery Act), the N.J. Campus Sexual Assault Victim's Bill of Rights, and/or 34 CFR 668.47(a) (12) (vi) do permit the disclosure of campus conduct findings and any resulting appeals to victims of "sex offenses" (including non-forcible ones) or "crimes of violence." New legislation or conduct interpretation may result in changes to privacy and disclosure regulations. If such changes occur over the course of the academic year, students who are currently involved in the discipline process will be so advised in writing, as appropriate and necessary.

I) Students may be accountable to both external authorities and to the University for acts that constitute violations of law and this Code. University Conduct proceedings will continue normally regardless of pending administrative, civil or criminal proceedings arising out of the same or other events, and will not be subject to challenge and/or appeal on the ground that criminal charges involving the same incident have been dismissed; reduced; or are pending.

J) The University Panel Hearing may accommodate concerns for the personal safety, well-being, and/or fears of confrontation of the Complainant, Accused Student, and/or other witnesses during the hearing by providing separate facilities, by using a visual screen, and/or by permitting participation by telephone, videophone, closed circuit television, video conferencing, videotape, audio tape, written statement, or other means, where and as determined in the sole judgment of the University Director of Student Conduct or designee to be appropriate

K) In cases involving Sexual Harassment/Assault, please refer to the supplemental complaint procedures, including the specific appeal process, outlined at : <https://www.montclair.edu/policies/all-policies/gender-based-conduct>. The University will disclose to alleged victims of violent crimes, and sex offenses, or to the next of kin if they have died, the final results of any disciplinary proceedings against alleged student perpetrators of such crimes

L) The respondent or complainant's withdrawal from the University does not terminate the disciplinary proceeding except when the University representative determines that it is appropriate under the circumstances for campus security, and reaches a resolution with the respondent, which includes withdrawal of the disciplinary charges. Any student(s) who withdraws from the University in an attempt to circumvent the conduct process will still be held accountable to established policies, if the alleged student is found responsible based on process guidelines. In incidents such as this, the student would be subject to forfeiture of any tuition, fees, etc, depending on the outcome of the process.

M) All Administrative and Panel hearing proceedings will be audio-recorded. These recordings are only for the purpose of providing assistance to the members of the Hearing Panel or Hearing Office in their deliberations, or by an appeal officer(s) if an appeal is filed. They are considered property of the University.

N) Where more than one student is charged with an offense arising from a single occurrence or from connected occurrences, a single hearing may be held for all students so charged. In said cases, separate determinations of responsibility will be made for each responding student.



O) Students who have multiple reported incidents may receive a cumulative outcome response regarding the incidents, but any outcome will note the individual charges outcome respectively.

P) The University may provide students amnesty regarding alcohol and/or other drugs related incidents when the student meets the standard of the Medical Amnesty Policy (<http://www.montclair.edu/dean-of-students/student-conduct/medical-amnesty/>) or in cases arising out of victims of sexual assault/harassment so that they do seek assistance. While the University maintains records of medical amnesty, it may not be reported to third parties in connection with the student's academic record.

Q) Any documentation that a student may wish to have presented to University Panels must be provided two business days in advance of the scheduled University Panel to the Director of Student Conduct or designee.

R) The University reserves the right to administer the conduct process via video conference. When a video conference is utilized, all normal policy and procedures are expected to be followed. However, in such instances, the entire process, including the hearing, will be recorded.

S) In cases involving Title IX accusations, a final report will be issued summarizing the relevant exculpatory and inculpatory evidence, and findings of credibility will be noted.

T) Disciplinary records will be maintained by the University for seven (7) years from the time of their creation.

U) Respondent students may receive one of four findings: 1) finding of "responsible"; 2) finding of "not-responsible"; 3) finding of "reprimand notice" only or 4) finding of "charges dismissed". In cases that result in all charges being dismissed or found "not responsible", the student will not receive a sanction pursuant to Section IV below.

## IV. Sanctions/Stipulations

### A. Sanctions

Factors to be considered in deciding sanctions will include, but will not be limited to the following criteria: (1) present demeanor and past disciplinary record of the student, (2) the nature of the offense(s), (3) severity of any damage, injury, or harm resulting from it as perceived by the victim and/or appropriate University officials, (4) University precedent for similar violations, (5) mitigating or aggravating factors identified by student and/or witnesses. The (ab)use of alcohol and/or illegal substances will be considered an aggravating rather than a mitigating factor. Violations of the Code of Student Conduct that can be proven to have been motivated by illegal bias will result in the imposition of more severe sanctions. Victims may submit written statements to the University Director of Student Conduct detailing the effect the offense has had upon them and their ability to function as students. Repeated or aggravated violations of any provisions of this code may result in expulsion, suspension, or in the imposition of such lesser penalties as may be appropriate.

#### 1. Reprimand Notice

The student is provided a reprimand notice indicating that an incident has been recorded. Reprimand Notices are non-releasable and do not become permanent additions to the student record, as they are not formal sanctions. Examples would entail University No-Contact Orders issued solely by themselves and academic dishonesty reprimands.

#### 2. University Warning

This sanction indicates that a violation of the Code of Student Conduct has occurred and informs the student that a subsequent violation will be treated more severely.

#### 3. University Probation

This sanction informs the student that a subsequent violation of the Code of Student Conduct will result in revocation of certain University privileges and a serious review of their status as a student at the University. Students on probation may be prohibited from being members of a recognized or registered student organization, participating in the activities of such organizations, serving as a representative of the University, or participating in intramural, club, or intercollegiate sports. Students on probation may be required to relocate to a different residence hall or campus housing assignment. Students on probation may also be restricted from certain campus

facilities, including but not limited to the residence halls and campus apartments, dining facilities, Panzer Athletic Center, Student Recreation Center, and other campus recreation facilities, Red Hawk Diner, and the Student Center. Copies of the notification of this sanction will be sent to appropriate University offices to notify them about students placed on probation and the nature of their probationary status.

#### 4. **University Suspension**

This sanction informs the student of specific University privileges that have been revoked for a specific period of time, which may include, but are not limited to: 1) the ability to enroll as a student 2) the ability to register for or attend specific courses, 3) the ability to be present on the campus grounds, 4) the ability to attend or participate in certain University-sponsored events, on-campus or away from campus, or 5) the ability to reside in a University residence hall or campus apartment, or to utilize specific University facilities such as dining halls, recreation facilities, or student organizations. As previously stated, suspension may explicitly prohibit a student from taking courses or registering for courses. At the discretion of the Conduct Officer or Hearing Panel adjudicating the matter, a student may be suspended from campus activities or facilities only. Suspension is for a period of time not less than one academic semester and not more than one academic year for a respective incident. Students who do not comply with this sanction are subject to arrest for criminal trespass and risk additional discipline sanctions including expulsion. Students who are suspended during the academic semester will be administratively assigned a "WD" for their coursework. Students will have transcript notation for University Suspension.

#### 5. **University Expulsion**

The student is permanently separated from the University, meaning they will never again be permitted to register for courses, be present on campus, or attend or participate in University-sponsored events. Individuals who do not comply are subject to arrest for criminal trespass. Students who are expelled during the academic semester will be administratively assigned a "WD" for their coursework. Students will have transcript notation for University Expulsion.

#### 6. **Interim and Final Protective Measures**

The University will identify and implement such interim measures to protect the complainant before the final outcome of an investigation involving Dating, Relationship or Sexual Misconduct or Violence, and to ensure equal access to its education programs and activities. The University will undertake these measures promptly once it has received notice of an allegation of Dating, Relationship or Sexual Misconduct or Violence. Interim measures may include, but not be limited to, a No Contact Order, or permitting complainant to change academic and extracurricular activities or their living, transportation, dining, and working situation as appropriate. The University may impose the same or additional protective measures after a final determination of the Dating, Relationship or Sexual Misconduct or Violence charges.

### **B. Stipulations**

The sanctions described above may be enhanced or modified, depending on the severity of the case, the impact of the violation(s) on the campus community, other policies violated during the incident, the discipline history of the student(s) involved, or the learning and ethical development needs of the student found responsible for violating the Code of Student Conduct. Sanction stipulations that may be imposed at the discretion of the Conduct Officer or hearing panel include, but are not limited to, the following:

- Students may have campus residence (residence halls and campus apartments), campus driving, or parking privileges limited or revoked and be subject to the status of Persona Non Grata; Any student who is removed from residential housing will have a maximum of three (3) business days of electronic delivery of notice to vacate their assignment. Further, students need to vacate residential housing in twenty-four (24) hours of electronic delivery of notice if an appeal is denied for a residential suspension/expulsion outcome.
- Students may be required to complete community restitution projects and/or educational assignments;
- Students may be required to make financial restitution for damages incurred as a result of the violation for which they have been found responsible;

- Students may be required to disassemble and/or remove certain belongings, materials, possessions, or property from campus or campus-related facilities, including material hosted or placed on University networks, servers, or websites in an unauthorized manner or in a manner inconsistent with University policies;
- Students may be referred to University Health Center (UHC), Counseling and Psychological Services (CAPS), or Disabilities Resource Center (DRC) for appropriate medical or psychological services for counseling or other special help;
- Students may be subject to having restrictions placed on their ability to register for credits or other holds placed on their accounts;
- Underage students may be subject to parental notification in cases dealing with alcohol and/or drugs as outlined in the University Parental Notification Policy permitted by the **Family Educational Rights and Privacy Act (FERPA)**.
- Revocation of Admission and/or Degree: Admission to or a degree awarded from the University may be revoked for fraud, misrepresentation, or other violation of University standards in obtaining the degree, or for other serious violations committed by a student prior to graduation.
- Withholding Degree: The University may withhold awarding a degree otherwise earned until the completion of the process set forth in this Student Conduct Code, including the completion of all sanctions imposed, if any.
- Students may have their current University status modified to limit their presence and/or engagement in University-related programs and activities for specific time periods.

A student may receive more than one stipulation for a single violation. Students who are found responsible for Code of Student Conduct violations may, at the discretion of the conduct officer or hearing panel adjudicating the case, be offered the opportunity to engage in substantive educational and reflective activities and, after the satisfactory completion of the specified educational and reflective activities, may have certain appropriate privileges restored.

### C Transcript Notation

1. Students suspended from the University, as a result of disciplinary action, will have a notation placed on their transcript. If the student reenrolls, remains in good disciplinary standing and completes the requirements for graduation, the student may request removal of the notation at the time they file for graduation. Requests must be submitted to the Office of the Provost. The Provost, in consultation with other University officials, will make the final decision regarding removal of the notation. A review is not an indication that the request will be granted.
2. Students expelled from the University, as a result of disciplinary action, will have a notation placed on their transcript. The notation is permanent.
3. Notation will read as "Disciplinary Suspension" and "Disciplinary Expulsion" respectively.
4. Transcript Notation may or may not be considered by another institution when accepting the transfer of earned credits.

**Note View Sanction Removal Guidelines**

### D. Refund Policy

No refunds of tuition, fee, room or board charges will be provided to any student who has been found responsible for violating the University Code of Student Conduct and placed on probation, suspended or expelled from the University or from a residence hall or campus apartment.

## V. Violations

### A. Academic Dishonesty

*Minimum sanction: Probation; Maximum sanction: Expulsion.*

Academic dishonesty is any attempt by a student to submit 1) work completed by another person without proper citation or 2) to give improper aid to another student in the completion of an assignment, such as plagiarism. No student may intentionally or knowingly give or receive aid on any test or examination, or on any academic exercise, that requires independent work. This includes, but is not limited to using technology (i.e., instant messaging, text messaging, or using a camera phone) or any other unauthorized materials of any sort, or giving or receiving aid on a test or examination without the express permission of the instructor. Students are expected to adhere to instructions provided by their faculty regarding submitted work, as well as exam guidelines, whereas failure to do so may constitute academic dishonesty. The following are examples of academic dishonesty:

1. Copying from another student's paper/test/examination
2. Using materials not authorized by the instructor on a test or examination
3. Collaborating with any other person during a test or examination without authorization from the instructor
4. Knowingly obtaining, using, buying, selling, transporting or soliciting, in whole or in part, the contents of a non-administered or online test or examination
5. Coercing any other person to obtain a non-administered test or examination, or to obtain information about such an examination or test
6. Substituting for another student, or permitting any other person to substitute for oneself to take a test or examination
7. Altering test answers and then claiming the instructor improperly graded the test or examination
8. Submitting altered/falsified papers, documents, etc., in an attempt to earn a grade
9. Collusion or purchased term papers:

Collusion, the unauthorized collaboration with another person in preparing work offered for credit, is academically dishonest. Montclair State University prohibits the preparation for sale and/or subsequent sale of any term paper, thesis, dissertation, essay or other assignment with the knowledge that the assignment will be submitted in whole or in part for academic credit.

10. Plagiarism:

Plagiarism is defined as using another person's words as if they were your own, unintentionally or otherwise, and the unacknowledged incorporation of those words in one's own work for academic credit. Plagiarism includes, but is not limited to, submitting a copied, partially copied, or partially paraphrased work of another as one's own project, paper, report, test, program, design, pictures, images, or speech (whether the source is printed, under copyright in manuscript form or electronic media) without proper citation. Clear attribution of sources must accompany all submitted work. Source citations must be given for works quoted or paraphrased. The above rules of academic dishonesty apply to work that is graded, ungraded, group, individual, written, or oral. The following guidelines for written work will assist students in avoiding plagiarism:

- (a) General indebtedness for background information and data must be acknowledged by inclusion of a bibliography of all works consulted;
- (b) Specific indebtedness for a particular idea, or for a quotation of four or more consecutive words from another text, must be acknowledged by footnote or endnote reference to the actual source. Quotations of four words or more from a text must also be indicated by the use of quotation marks;
- (c) Project work will be considered plagiarism if it duplicates completely or in part, without citation, the work of another person to an extent that is greater than is commonly accepted. The degree to which imitation without citation is permissible varies from discipline to discipline. Students must consult their instructors before copying another person's work.
- (d) Information taken from the Internet/websites must be cited, otherwise it will be defined as plagiarism.
- (e) Falsifying or inventing any information, data or citation.
- (f) Submitting identical or similar papers for credit in more than one course without prior permission from the course instructor.

## B. Alcohol Violation

*Minimum sanction: Warning; Maximum sanction: Expulsion.*

Drinking or being in possession of any alcoholic beverage, or powdered alcohol mixtures, in public or private areas of University premises not approved for such activity, possession and/or consumption by a minor; public intoxication; soliciting University students and minors to purchase alcohol off-campus, and driving while intoxicated.

1. **Common Sources/Bulk Containers:** Possessing, furnishing, or serving from a common source of alcohol (i.e. kegs, mini-kegs, beer balls, punch bowls, or other approximate equivalent number of servings) is prohibited. Bulk containers and/or mass quantities of any alcohol are not permitted in apartments, suites, and/or individual rooms. Sanctions apply to all students (residents and non-residents) present at the time of the infraction and/or to all students (residents and non-residents) who were involved in any way in planning or hosting an event at which a common source or bulk container is provided. In addition, empty kegs, mini-kegs, beer balls, and/or any tapping devices are not permitted in any apartment, suite, or individual room for any purpose, including use as decorations and/or furnishings.
2. **Rapid Consumption:** Objects and drinking apparatuses or methods that promote irresponsible binge consumption of alcohol, which include, but are not limited to, funnels, beer bong, or drinking games, including imitations or non-alcoholic beverages (i.e. root beer pong) are prohibited. All individuals present at the time of the infraction may be charged for a policy violation.
3. **Residence Halls and Hawk Crossings Apartments:** The University promotes an alcohol-free residence hall community as part of a strong academic environment. Because the majority of campus residents are under age and due to the challenges of alcohol abuse, alcohol is prohibited in the residence halls and Hawk Crossing Apartments. Possession of alcohol, or empty alcohol cans, bottles, etc., constitutes a violation and may result in strict disciplinary action and/or dismissal from the residence community. Alcohol containers may not be used for decorative purposes. Students may be asked to reveal the contents of bags, boxes, etc., if reasonable suspicion of possible alcohol possession exists.
4. **The Village at Little Falls Alcohol Policy.** In keeping with NJ laws regarding alcohol, and the University's own philosophy regarding substance use and abuse, only Village residents 21 years of age or older may possess and consume alcohol inside their apartments and only under the following conditions: 1) no alcohol deliveries are permitted to the apartments, 2) no alcohol is permitted outside the buildings or in hallways/stairwells, or other common areas outside of apartments and 3) no alcohol is given to individuals under 21 years of age.
  - a. **Quantities.** To prevent alcohol abuse, the University prohibits quantities of alcohol beyond what is reasonably appropriate for personal use by the number of occupants assigned to a residence. Quantities of alcohol that are intended for consumption beyond personal use by the number of occupants (e.g. for entertaining or a party) are prohibited. The University may consider the number of empty containers within a residence in determining whether this section of the Code has been violated. All empty containers must be disposed of promptly for safety and sanitary reasons.
  - b. **Roommates.** Students under 21 years old sharing an apartment in The Village with students who are 21 years old or older may be in the presence of alcohol within their apartment ONLY; however, the underage individuals are NOT allowed to consume or possess alcohol. Non-residents of the apartment under the age of 21 are not permitted to be in the presence of alcohol.

### C. Computer Misuse

*Minimum sanction: Probation; Maximum sanction: Expulsion.*

1. A student will be found responsible for the misuse of computers who uses any information technology to materially disrupt University operations or to substantially interfere with the right of other members of the University community to secure access and use of University facilities and services. Computer misuse includes, but is not limited to, hardware theft or fraud, duplicating copyrighted software, unauthorized use, the subverting of restrictions, plagiarizing class programs, invasion of privacy rights, and unlawful use of the Internet. Unlawful downloading of music, movies, or other copyrighted material is expressly prohibited, as is the illegal file sharing of such material. A student may be found responsible for computer misuse who uses University computing facilities

and information technology services, such as a student e-mail account, or whether computer or University WiFi are accessed from on- or off-campus. This also includes any violation of University Information Technology policies.

#### **D. Dating, Relationship or Sexual Misconduct**

*Minimum sanction: Probation; Maximum sanction: Expulsion.*

The University is committed to protecting the health and safety of students and to implementing the New Jersey Campus Sexual Assault Victim's Bill of Rights Act and the Federal Violence Against Women Act, by prohibiting threats, intimidation, coercion, assault, abuse and violence in dating, interpersonal and sexual relationships. This policy is gender inclusive recognizing that any individual can be victims or perpetrators of dating, relationship or sexual misconduct. The University will assist the victim in reporting any sexual misconduct to law enforcement authorities. Victims of sexual assault will have the right to interim and supportive measures following an allegation of Dating, Relationship or Sexual Misconduct, or Violence including but not limited to, a No Contact Order and/or changing their academic and living situation if such options are reasonably available. For additional resources, please refer to [montclair.edu/montclair-state-university-police-department/annual-security-report/](http://montclair.edu/montclair-state-university-police-department/annual-security-report/).

The University will identify and implement such interim measures to protect the complainant before the final outcome of an investigation involving Dating, Relationship or Sexual Misconduct or Violence, and to ensure equal access to its education programs and activities. The University will undertake these measures promptly once it has received notice of an allegation of Dating, Relationship or Sexual Misconduct or Violence. Interim measures may include, but not be limited to, a No Contact Order, or permitting complainant to change academic and extracurricular activities or their living, transportation, dining, and working situation as appropriate. The University may impose the same or additional protective measures after a final determination of the Dating, Relationship or Sexual Misconduct or Violence charges.

1. **Sexual Misconduct.** A student is responsible for sexual misconduct when the student engages in a sexual act without the Consent of the other participant(s). Sexual misconduct includes Stalking, Sexual Assault, and any other sexual contact, intercourse and/or penetration without a person's Consent. Sexual Misconduct also occurs when a person takes sexual advantage of another person for the benefit of anyone other than that person without that person's Consent, and includes but is not limited to, prostituting another person; recording images or audio of another person's sexual activity, intimate body parts, or nakedness without that person's Consent; distributing images or audio of another person's sexual activity, intimate body parts, or nakedness, if the individual distributing the images or audio knows or should have known that the person depicted in the images or audio did not Consent to such disclosure and objects to such disclosure; and viewing another person's sexual activity, intimate body parts, or nakedness in a place where that person would have a reasonable expectation of privacy, without that person's Consent, and/or for the purpose of arousing or gratifying sexual desire. The distribution of sexual images in violation of the Student's Code of Conduct's Section C. Computer Misuse and Section F. Invasion of Privacy shall also constitute Sexual Misconduct.
2. **Dating or relationship misconduct.** It shall be a violation of this Code for a student to engage in Dating Violence or Domestic Violence as defined by this Code and Section E below. A student may be found responsible for dating or relationship misconduct and/or violence when a student engages in sexual misconduct and/or violence (as defined above), or harassment, intimidation, or bullying (as defined in E. below), directed to a member of the University community with whom the student had, or has, or seeks to have a dating, or interpersonal, and/or sexual relationship; or any present or former housemate, roommate, spouse, or person with whom the student shares custody or parenthood of a child.

#### **E. Harassment**

*Minimum sanction: Warning; Maximum sanction: Expulsion*

Students are prohibited from engaging in harassment, intimidation and bullying. A student will be found responsible for harassment, intimidation or bullying if they engage in conduct, including but not limited to, any gesture, written, verbal or physical act, or any electronic communication (which includes e-mails, text messages, and Internet postings on websites or social media), whether it be a single incident or series of incidents, that occurs on or off the University's campus, through use of the University facilities, or at any function sponsored by the University or any University related-organization; that is so severe or pervasive and



objectively offensive that substantially disrupts or interferes with the orderly operation of the University or the rights of any student or other member of the University community; and that:

- (a) involves intimidation or threats to another person's safety, rights of personal privacy and property, academic pursuits, University employment, or participation in activities sponsored by the University or organizations or groups related to the University; or
- (b) creates an intimidating or hostile environment by substantially interfering with a student's education, or by materially impairing the academic pursuits, employment or participation of any person or group in the University community, or by severely or pervasively causing physical or emotional harm to the student or other member of the University community; or
- (c) a reasonable person should know, under the circumstances, will have the effect of physically or emotionally harming a student or other person or damaging the property or placing him/her in reasonable fear of physical or emotional harm to his/her person, or to any member of that person's family or household, or of damage to his/her property; or
- (d) a reasonable person should know, under the circumstances, will have the effect of insulting or demeaning any student or group of students.
- e) a student violates a domestic violence restraining order obtained against another student.; or
- f) depending upon the facts and circumstances, Dating Violence, and Domestic Violence may also be Harassment;
- g) involves any attempt of blackmail (i.e. threat to reveal damaging or revealing information, such as photos and/or videos) or extortion (i.e. threats of physical harm) directed toward a student.

- **Discriminatory Harassment, Intimidation and Bullying**

*Minimum sanction: Probation; Maximum sanction: Expulsion*

A student will be found responsible for discriminatory harassment, intimidation or bullying who engages in conduct described above as "harassment/ intimidation/bullying" which the student directs at a specific group or individual, based upon race, creed, color, national origin, ancestry, age, marital status, affectional or sexual orientation, familial status, disability, nationality, sex, gender identity or expression, or any other characteristic protected from discrimination by the New Jersey Law Against Discrimination, N.J.S.A. 10:5-4.

- **Sexual Harassment**

*Minimum sanction: Probation; Maximum sanction: Expulsion*

A student will be found responsible for sexual harassment who engages conduct described above as "harassment/intimidation/bullying" which the student directs at a specific individual based on sex, or which would not have occurred but for the individual's gender, or gender identification, which conduct is unwelcome and substantially interferes with work, educational performance or equal access to the University's resources and opportunities. Sexual harassment is a violation of Montclair State University's Statement on Equal Opportunity, Affirmative Action, Sexual Harassment and Tolerance as well as Title IX of the Education Amendments of 1972, and Title VII of the Civil Rights Act of 1964 (as amended in 1991). Under certain circumstances, sexual harassment may constitute sexual assault or abuse. The University will fully comply with all relevant civil laws prohibiting sexual harassment and all criminal laws concerning sexual assault. Please see the University policy on Sexual harassment.

- **Stalking**

*Minimum sanction: Probation; Maximum sanction: Expulsion*

A course of conduct by a student directed at a specific person that is sufficiently severe or pervasive and objectively offensive that a reasonable member of the University community would fear for his/her safety; the safety of a third party; or for the security of his/her residence and personal property. The course of conduct may include: repeatedly following the person, invading the person's privacy, vandalizing property, communication of any type, and similar acts that threaten, intimidate or create fear of injury or death of self or members of that person's family or household or fear of harm to that person's property.

## **F. Invasion of Privacy**

*Minimum sanction: Probation; Maximum sanction: Expulsion*

1. Making, attempting to make, transmitting, or attempting to transmit audio, video, or images of any person(s) in bathrooms, showers, bedrooms, or other premises where there is an explicit expectation of privacy with respect to

nudity and/or sexual activity, without the knowledge and consent of all participants subject to such recordings or transmittals.

2. Making, attempting to make, or transmitting an audio or video recording of private, non-public conversations and/or meetings without the knowledge and consent of all participants subject to such recordings. This provision does not extend to the recording of public events or discussions, or to recordings made for law enforcement purposes.
3. Viewing or spying on a person(s) in bathrooms, showers, bedrooms, or other premises where there is an explicit expectation of privacy with respect to nudity and/or sexual activity, without the knowledge and consent of all participants.
4. Unauthorized intrusion upon a person's private property or communications.
5. Unauthorized appropriation and/or use of someone's identifying or personal data or documents.

#### **G. Destruction of Property**

*Minimum sanction: Probation; Maximum sanction: Suspension.*

1. No student may intentionally or with reckless intent damage, deface or destroy University property or that of any other person;
2. No student may litter or place graffiti on walls, doors, furniture or other property.

#### **H. Disruptive Conduct**

*Minimum sanction: Warning; Maximum sanction: Suspension.*

A student will be found responsible for disruptive conduct if they substantially impairs, interferes with or obstructs the orderly conduct, process and functions of the University. Disruptive conduct includes, but is not limited to: noise which is unreasonably excessive in the area, time or manner in which it occurs; threatening or obscene language or behavior in public places; obstruction of vehicular traffic; and classroom behavior which materially interferes with either (a) the instructor's ability to conduct the class or (b) the ability of other students to profit from the instructional program.

This policy is not intended to discipline students for classroom dissent or civil discourse. Nor it is intended to hinder organized, nonviolent and orderly protests that are undertaken within reasonable time, manner, and place as established by the University's Demonstration Policy.

#### **I. Drug Violations**

*Minimum sanction: Probation; Maximum sanction: Expulsion.*

1. The intent of, actual distribution of, sale of or manufacturing of drugs, narcotics, barbiturates, hallucinogens, Cannabis/marijuana, steroids, amphetamines or any other controlled substance is prohibited. This includes any form of sale, exchange or transfer, regardless of monetary transaction.
2. The possession or use of controlled dangerous substances, Cannabis/marijuana, steroids, or narcotics, including, but not limited to, opium (morphine, codeine, heroin), prescription drugs in possession of someone other than the prescribed individual, misuse of prescribed drugs, and every other substance not chemically distinguishable from them (i.e. imitation/synthetic products such as bath salts and/or K2) as well as any drug paraphernalia, on campus or in any University-related premises is prohibited. This includes Cannabis/marijuana prescribed for debilitating medical conditions (i.e. medicinal Cannabis/marijuana in any form including pills or oil), as it is not allowed on University property.

*\*Students should be aware that federal law dictates that conviction in criminal court for certain controlled substance offenses including drug possession and/or sale may make them declared ineligible for Federal financial aid for a period of time. See the Financial Aid Office for details.*

#### **J. Failure to Comply**

*Minimum sanction: Warning; Maximum sanction: Suspension.*

A student will be found responsible for failure to comply if they refuse to present identification to University officials acting in the performance of their duties; fails or refuses to respond personally to a request to report to an administrative office; or otherwise fails or refuses to abide by directions issued by a University official acting within the scope of their authority.

#### **K. Forcible or Unauthorized Entry**

*Minimum sanction: Probation; Maximum sanction: Suspension.*

Students are prohibited from forcible or unauthorized entry into any University or University-related building, structure, or facility. This prohibition also includes, but is not limited to, illegal or unauthorized access to campus facilities gained by opening windows; tampering with door locks or locking mechanisms; gaining access through emergency exits; scaling walls, fences or gates; or copying, obtaining or using keys without authorization.

#### **L. Forgery, Alteration or Misuse of University Documents**

*Minimum sanction: Probation; Maximum sanction: Expulsion.*

The forgery, alteration, destruction, or misuse of University documents, records, timesheets, and identification cards is expressly prohibited. This includes, but is not limited to, the alteration, destruction, or misuse of such University and University-related materials as academic forms, files, records, identification cards, or other papers. Forging an instructor's and or site evaluator's signature or initials on examinations, evaluations, lab reports or other academic materials is prohibited. Students are prohibiting from forging any such material and risk facing criminal charges should they be found in violation of this policy.

#### **M. Furnishing False Information**

*Minimum sanction: Warning; Maximum sanction: Suspension.*

Students are prohibited from furnishing false oral or written information to any University office or official. Students are expected to be truthful with University officials at all times. Dishonesty is considered a serious offense against the University.

#### **N. Gambling**

*Minimum sanction: Warning; Maximum sanction: Suspension.*

Students are expected to abide by the federal laws and the laws of the State of New Jersey prohibiting illegal gambling. Gambling for money or other things of value on campus or at University-sponsored activities is prohibited except as permitted by law. Such prohibited activity includes, but is not limited to, betting on, wagering on, or selling pools on any Montclair State University athletic event; possessing on one's person or premises (e.g., room, residence unit, car) any card, book or other device for registering bets; knowingly permitting the use of one's premises or one's telephone or other electronic communications device for illegal gambling; knowingly receiving or delivering a letter, package or parcel related to illegal gambling; offering, soliciting or accepting a bribe to influence the outcome of an athletic event; and, involvement in bookmaking or wagering pools with respect to sporting events.

#### **O. Hazing**

*Minimum sanction: Suspension; Maximum sanction: Expulsion.*

1. A student will be found responsible for hazing if, in connection with the initiation of applicants to or members of a student organization (including but not limited to fraternities and sororities, athletic teams, SGA organizations, honor societies, etc.) they organize, promote, facilitate or engage in any conduct, other than competitive athletic events, which a) places or may place another person in danger of mental or bodily injury or b) demonstrates indifference or disregard for another person's rights, dignity or well-being. Examples of hazing include, but are not limited to the following:

- Forced or required ingestion of alcohol, drugs, food or any undesirable substance or quantity of substances.
- Participation in sexual rituals or assaults.
- Forced or required participation in criminal conduct, conduct which violates the civil rights of others, or conduct which is mentally abusive or degrading to the participants or others.
- Acts that could result in physical, mental or emotional deprivations or harm.
- Physical abuse, e.g. whipping, paddling, beating, tattooing, branding and exposure to the elements.

2. Organizations charged with hazing, as distinct from individuals so charged, face University disciplinary action under the Student Organization Conduct Process outlined in Section IX and may be additionally referred to the Greek Council or to SGA Judiciary Boards.

#### **P. Infliction or Threat of Bodily Harm**

*Minimum sanction: Probation; Maximum sanction: Expulsion.*

Students are prohibited from fighting and engaging in other acts of physical assault and violence in any University or University related facility, or at University events, including academic, athletic, and social events held on campus or away from campus. While self-defense will not excuse a student's actions, the University will take into consideration the legitimacy of the justification offered in addressing the proper outcome.

1. No student may intentionally inflict bodily harm upon any other person.
2. No student may intentionally take any action for the purpose of inflicting bodily harm upon any other person.
3. No student may intentionally take any action with reckless disregard for the fact that bodily harm could result to any other person.
4. No student may perform any intentional act that creates a substantial risk of bodily harm to any other person.
5. No student may threaten to use force to inflict bodily harm upon any other person.

#### **Q. Organization and Event Registration**

*Minimum sanction: Warning; Maximum sanction: Suspension.*

Students are required to comply with policies or regulations governing the registration of student organizations, events on campus, and use of University facilities.

#### **R. Residence Hall Regulations**

Students are required to abide by policies and procedures defined and outlined in the terms and conditions of the Residence Hall License Agreement and the Resident Student Community Living Guide. Any policy violation within a residential facility may result in a referral to and charges under the conduct process. Failure to abide by instruction by Residence Life staff constitutes a violation of policy. These policies include, but are not limited to, the following:

##### **1. Access**

*Minimum sanction: Probation; Maximum sanction: Suspension.*

When halls are officially closed during vacation periods and winter sessions, access will not be permitted without approval from the Office of Residence Life.

##### **2. Appliances**

*Minimum sanction: Warning; Maximum sanction: Suspension.*

Fire and safety regulations strictly prohibit the use of the following in the residence halls: toaster ovens, hot plates, open coil hot pots, grills (including George Foreman grills), deep fat fryers, gasoline stoves, clothes washers, dryers, dishwashers and air conditioners. (Exceptions apply to the Village Apartments, Hawk Crossings Apartments and the lounge kitchens, where George Foreman Grills and toaster ovens are permitted.)

##### **3. Ball Playing**

*Minimum sanction: Warning; Maximum sanction: Suspension.*

Ball play is not permitted in the residence hall. To respect the rights of others, ball playing, i.e., baseball, football, Frisbee, soccer, etc, is prohibited on or near all walkways and, specifically, the Blanton-Bohn quad area. Volleyball is limited to clearly marked playing areas. Students are encouraged to use the University playing field for these activities.

##### **4. Bicycles, Motorcycles, Skateboards, and Rollerblading**

*Minimum sanction: Warning; Maximum sanction: Suspension.*

For safety reasons, motorcycles and bicycles may not be stored or parked inside any of the housing facilities.

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Skateboarding is prohibited in all residence hall areas, specifically, the Blanton-Bohn quad area. Rollerblading is not permitted in the residence halls.

**5. Bunk/Loft Beds/Furniture**

*Minimum sanction: Warning; Maximum sanction: Suspension.*

For safety reasons, only beds designated by the Department of Residential Education and Services may be bunked. Beds must be bunked by an approved representative of the University after authorization from the Community Director. A written waiver of liability must be signed by the residents. University residential furniture is not allowed to be disassembled. Students are only permitted to use their appointed furniture within a residential space and if a room is not fully occupied, the space must be kept accessible to any new student placement.

**6. Holiday Decorations**

*Minimum sanction: Warning; Maximum sanction: Suspension.*

Only artificial trees, wreaths, branches, etc., are permitted in the residence halls or apartments by order of the State Fire Marshall. Decorations must be nontoxic, fire retardant, and must not interfere with easy exiting, use of fire safety equipment or safety signs, and may not cover more than 60% of any wall space. Holiday lights are permitted as long as they are not daisy chained/connected to one another. All decorations must be removed before you leave for holiday vacation.

**7. Guest Policy**

*Minimum sanction: Warning; Maximum sanction: Suspension.*

A guest is defined as anyone who is not assigned a residential space within the apartment/room in which you live. This includes, but is not limited to residents of the same hall who do not live in your room; residents from other buildings; commuter students; family; and friends. Residents need the explicit permission of all their roommates/apartment mates in order to have a guest(s) stay overnight. Each resident is permitted to have up to two (2) guests at any one time. Further, a student may have a total of three (3) guests stay overnight for a total of three (3) days during the week. For example, one guest can stay total of three nights with no other overnight guests allowed that week resulting in three overnight guests; one guest can stay twice and another guest can stay once resulting in three overnight guests. No guest may stay overnight more than 3 nights during the week with any residential host. A week is defined as any consecutive seven (7) day period. An overnight visit is defined as a guest being present in a residential facility for more than two (2) hours between 2:00 a.m. and 8:00 a.m. Residents, as well as guests, will be held liable for the behavior and actions of their guests, whether they were signed-in or not signed-in to the hall. Only individuals who are currently registered students at the University and who have an assignment by the Office of Residence Life for the space in question are permitted to live in the room. The host and guest may face conduct action for any presumption of unauthorized occupancy.

**8. Noise**

*Minimum sanction: Warning; Maximum sanction: Suspension.*

Students are responsible for the noise coming from their room and windows. Students may not yell. Students may not listen to their televisions, radios/stereos, or play music inside of their rooms that can be heard outside of their room. Students may not play music outside of their room, without specific permission of residence life staff. If asked to lower the volume of noise coming from a room, also known as courtesy hours, students are expected to do so, regardless of day and/or time. Failure to comply may result in disciplinary action. During quiet hours, music, noise, etc. should not be heard outside of rooms or apartments. This policy also applies to public areas such as lounges, building lobbies, the Blanton-Bohn quad, etc. Twenty-four hour quiet hours are in effect during all reading days and final exam periods. Violation of this policy will result in your immediate dismissal from your residence community.

**9. Painting/Construction**

*Minimum sanction: Warning; Maximum sanction: Suspension.*

Painting or construction is not permitted in the residence rooms, or apartments.

**10. Postings/Signs/Wall Hangings**

*Minimum sanction: Warning; Maximum sanction: Suspension.*

All posters, flyers, etc., require approval of a Community Director before posting. Please remember that posters, flyers, etc. can only be posted in authorized locations. Signs, which promote the consumption of alcohol, the use of controlled dangerous substances, or anything, viewed as obscene and inappropriate behavior may not be displayed in any public area (e.g., windows, students room windows, doors, common areas, etc.). Signs, which protect and/or inform the public of the residence hall facilities, may not be relocated into resident's rooms. Tapestries and flags are allowed provided that the total amount of wall covered does not exceed 50%.

#### 11. Restricted Areas

*Minimum sanction: Suspension; Maximum sanction: Expulsion.*

All roofs, balconies, window ledges, and mechanical rooms are off-limits. Any unauthorized entry into or onto an off-limits area is not only a liability to the University, but also jeopardizes the safety of individuals as well.

#### 12. Smoking

*Minimum sanction: Warning; Maximum sanction: Suspension.*

Smoking is not permitted in any University residential facility. This includes but is not limited to the following: bedrooms, lounges, bathrooms and hallways. Evidence of smoking (i.e. cigarette butts, is also prohibited). The New Jersey Smoke-Free Air Act of 2006 was amended in 2010 banning electronic smoking devices. Therefore, the use of any electronic smoking device is also prohibited. Further, use of smokeless tobacco products is not permitted within the residential halls.

#### 13. Solicitations/Surveys

*Minimum sanction: Warning; Maximum sanction: Suspension.*

Solicitations and surveys are not permitted without written approval from the Department of Residential Education and Services.

#### 14. Window Screens and Balconies

*Minimum sanction: Warning; Maximum sanction: Suspension.*

The window screens in your apartment or residence hall room should be kept in place at all times. Window screens removed from a window will result in disciplinary action being taken. If a screen/window is broken, a student needs to inform residential life staff as soon as possible. Absolutely no items should be thrown out, hung out or displayed out of any residence hall window, or off any building balcony.

#### 15. Occupancy

*Minimum sanction: Warning; Maximum sanction: Suspension.*

Total occupancy of the apartments (The Village at Little Falls and Hawk Crossings) will be no more than twelve (12) total individuals. Triple will have total occupancy set at nine (9) individuals. Doubles will have total occupancy of six (6) individuals. Singles will have total occupancy of three (3) individuals. The total occupancy levels outlined are subject to maintaining compliance with guest policy guidelines (i.e. one resident cannot have more guests as long as they maintain numbers under total occupancy; this would result in a violation of the guest policy). Students are not allowed to take up more than their individually-assigned space regardless of the total assigned students in a room.

#### 16. Pets/Service Animals

*Minimum sanction: Warning; Maximum sanction: Suspension.*

Residential guidelines allow only non-predatory fish in a one-gallon tank in residential rooms. No other animals are permitted within any residential facility with the exception of those that have been approved by the Office of Residence Life Support/Service Animal (Residence Life S/SA) policy. The pet owner is ultimately responsible for the actions of the pet. As such, students must ensure proper noise control, hygiene and care of their approved support/service pet so that it is not disruptive to the educational pursuits of the community. Students also must be in full compliance with the Residence Life S/SA policy guidelines.

### S. Safety

*Minimum sanction: Warning; Maximum sanction: Expulsion.*



The University requires students to abide by numerous security regulations and other protective measures in order to assure safe living and learning environments for all students, as well as the faculty, administrators, and staff who also use campus facilities. Students are prohibited from threatening to and/or bringing any incendiary device to campus, to University-related premises, or to University-related events, including academic, athletic, and social events held away from campus. This includes, but is not limited to the following:

1. Unauthorized use, possession, storage, knowledge, or failure to report fireworks, explosives or other incendiary device of any description, but not limited to: firecracker; M-80s; bottle rockets; ammunition; gasoline; kerosene; propane; paint thinner; and similar items.
2. Causing or creating a fire.
3. Tampering with safety measures or devices, such as alarm systems, fire extinguishers, Automated External Defibrillators (AED), exit signs, emergency phone systems, smoke or heat detectors, fire hoses, security systems, locked exterior doors, sprinkler systems (i.e. students are not allowed to hang/suspend any object from sprinkler heads).
4. Failing to conform to safety regulations
  - (a) False report of a bomb, fire or other emergency in any building, structure or facility on campus or in any University-related premises by means of activating a fire alarm or in any other manner.
  - (b) Failure to evacuate facilities in a timely fashion in emergency situations or in response to fire alarms.
  - (c) Inappropriate use of the fire alarm system.
5. Residential Facilities: In addition to the aforementioned standards, the following are prohibited items within all residential facilities: candles; incense; halogen lamps; torchiere lamps; lava lamps; multi-arm "octopus" lamps.

#### **T. Smoking**

*Minimum sanction: Warning; Maximum sanction: Suspension*

The University implemented a phased Tobacco Free Campus Policy in spring 2017 due to documented health risks associated with tobacco products, both for the individual user and those affected by secondhand smoke. Accordingly, the University will become fully smoke-free, tobacco-free and vapor-free on September 1, 2020 to sustain a healthy campus environment. Individuals are encouraged and empowered to respectfully inform others about the policy in an ongoing effort to support individuals to be tobacco free and encourage a culture of compliance. Substantiated violations will have appropriate disciplinary action.

1. Montclair State University prohibits smoking in all buildings and facilities, including, but not limited to: residence halls, apartments, offices, classrooms and laboratories, studios, libraries, theaters and auditoriums, gymnasiums and recreation centers, parking structures, and public reception areas. The New Jersey Smoke-Free Air Act of 2006 was amended in 2010 banning electronic smoking devices. Therefore, the use of any electronic smoking device, including vapor/hookah/etc... also is prohibited within any facility. Further, use of smokeless tobacco products also is prohibited.
2. Smoking is only allowed in specifically designated outdoor areas of the University campus. Designated areas are marked and includes 25 feet from all entries, including adjacent to air intake units, entry canopies, playing fields, outside stairways, or on entrance ramps.

#### **U. Theft**

*Minimum sanction: Probation; Maximum sanction: Expulsion.*

Students are not permitted to engage in any form of larceny; robbery; shoplifting; burglary, theft, or stealing involving University or personal property; on University or University related premises, University events (including academic, athletic, and social events held away from campus. Students are also prohibited from enabling, aiding, or abetting any individual in the theft of any property or service on University or University-related premises, or at any University event. This policy also applies to attempted theft and being in the possession of stolen items.

**V. Violations of Local, State or Federal Law**

*Minimum sanction: Probation; Maximum sanction: Expulsion.*

Students are not permitted to violate any local, state or federal law on campus, in other municipalities, or in University-related events. The University retains the discretion to report suspected violations of state, local or federal law to appropriate law enforcement officials, at any time, regardless of the issuance of disciplinary charges against a student under this Code.

**W. Violations of Written University Policy, Regulations and Announcements**

*Minimum sanction: Warning; Maximum sanction: Expulsion.*

Because certain functions, procedures, and processes of the University and University related business may change after the formal publication of Montclair State University policies, students are expected to abide by written policies, regulations, and announcements about University processes and procedures that are developed and promulgated over the course of the academic year. Further, no individual will use the University's name and logo, or facilities, for commercial, personal or political purposes without authorization. No person will engage in conduct detrimental to the University community as hereinafter defined. Conduct will be deemed detrimental to the University community if it consists of an act or acts prohibited under municipal, state, or federal law or written policy or regulation of the University and either: (a) results in or threatens injury, damage, or loss to students, faculty, or administrative personnel of the University, or to buildings, structures or other property under University control; or (b) hinders the University in the pursuit of its educational mission and the discharge of its basic responsibilities to maintain an orderly educational atmosphere and to function without interruption as an institution of higher learning.

**X. Weapons**

*Minimum sanction: Suspension; Maximum sanction: Expulsion.*

Students are prohibited from threatening to and/or bringing any weapon or facsimile of a weapon to campus, to University related premises, or to University-related events, including academic, athletic, and social events held away from campus. Specific restrictions include:

1. Possession, storage or knowledge of possession and failure to report a dangerous weapon or realistic model of a weapon, including firearms or any explosive or incendiary device of any description;
2. Unauthorized use of any weapon or realistic model of a weapon, including items described in the New Jersey Code of Criminal Justice, or any similar instrument that has no legitimate or obvious purpose related to the educational program, including: dart gun, BB gun, bow and arrow, any instrument that can hurl a projectile, hunting knife, carpet knife, knives except those whose purpose is related to the preparation or consumption of food.
3. Exceptions to this policy include replica/toy versions of any weapon that is used for an on-campus class presentation, project, or activity with the faculty/staff member overseeing the event and University Police being alerted prior to the event occurring.

Note: Any Municipal County and State law enforcement officer (as recognized by the New Jersey Police Training Commission) may carry their duty weapon at all times in the State of New Jersey, however not when they are present on the Montclair State University campus. Officers are requested to contact the University Police Department, which offers temporary weapons storage to any visiting or attending police officer.

**Y. Student Organizations**

Student groups and organizations recognized by student government and/or their officers may be charged with and held responsible for violations of the Code of Student Conduct. Sanctions against the student organization and its officers may include recommendation to the Student Government for revocation of the organization's charter, loss of permission to use University facilities and/or the University name, loss of other privileges, as well as other appropriate sanctions. Student organizations may also be referred to the Student Government Judiciary process for adjudication. Furthermore, investigations of an incident may require that both a student organization and the individual members of that organization who were found to have violated University policy may face institutional sanctioning. Student Organizations may also face disciplinary action under the Student Organization conduct process outlined in section IX of this Code.

**Z. Abuse of the Conduct System**

*Minimum Sanction: Probation; Maximum Sanction: Expulsion.*

Any abuse of the University's conduct process, including but not limited to the following:

1. Failure to obey the notice from a University official to appear for a meeting or hearing as part of the Student Conduct System.
2. Falsification, distortion, or misrepresentation of information before a Conduct Officer or Hearing Panel.
3. Disruption or interference with the orderly conduct of a Student Conduct proceeding.
4. Attempting to discourage an individual's proper participating in, or use of, the student conduct system.
5. Attempting to influence the impartiality of a member of a University Panel Hearing prior to, and/or during the course of, the University Panel Hearing.
6. Harassment (verbal or physical) and/or intimidation of a member of a University Panel Hearing prior to, during, and/or after a student conduct code proceeding.
7. Failure to comply with the sanction(s) imposed under the Student Code of Conduct.
8. Influencing or attempting to influence another person to commit an abuse of the student conduct system.
9. Repeated and/or multiple violations of University policy.

## **VI. University No Contact Order (UNCO)**

If a student alleges that another student has engaged in harassing and/or threatening behavior against him or her, the Dean of Students will assist the victim by issuing a University No Contact Order (UNCO) if the action violates the following provisions in the University Code of Conduct:

- Section D (Dating, Relationship or Sexual Misconduct or Violence), and/or
- Section E (Harassment), and/or
- Section F. (Invasion of Privacy), and/or
- Section H (Disruptive Conduct), and/or
- Section P (Infliction or Threat of Bodily Harm)

A University No Contact Order (UNCO) may be issued by the Dean of Students for violating the foregoing provisions of the Student Code of Conduct. The UNCO shall be served upon all parties and state the reasons in support of its issuance. Students who have been issued a UNCO will meet with a University Hearing Officer to discuss the UNCO. Students will be asked to provide written consent indicating compliance with the UNCO. The Dean of Students may proceed with the student conduct hearing process based on the alleged violation if the student fails to provide written consent. The alleged student violator who fails to provide written consent may still be issued a UNCO, if warranted, for the protection and safety of the complainant pending a final hearing regarding the alleged violation. UNCOs are not part of a student's official and/or unofficial academic record. Violations of the UNCO are prohibited. If a student feels that the UNCO has been violated, they are to contact the Dean of Students or designee to review. Investigations of alleged UNCO violations may determine that an accidental or non-intentional violation occurred, which may result in no disciplinary action.

## **VII. Adjudication of Disciplinary Cases**

### **A. Filing a Complaint**

The process described below applies to the adjudication of all discipline cases with the exception of alleged Academic Dishonesty.

The process for adjudicating Academic Dishonesty cases is described in Section C: Academic Dishonesty Procedures. In order to

initiate a disciplinary proceeding, a member of the University community must file a complaint with the Office of the Dean of Students, the Office of Residence Life and/or University Police. Members of the University Community are directed to submit reports via the Symplicity system via the following link: [https://montclair-advocate.symplicity.com/public\\_report/](https://montclair-advocate.symplicity.com/public_report/). If a community member needs to file a Police report, they would need to contact University Police directly. The document should include:

1. The name of the complainant
2. The name of the person who is the object of the complaint
3. The date or dates on which the alleged incident took place
4. The place or places where the alleged incident took place
5. A statement describing, in detail, the alleged incident
6. The names of any witnesses to the alleged incident
7. A one-sentence statement of the remedy sought by the complainant
8. The signature of the complainant, and the date when the complaint is filed

## **B. Responding to Complaints**

Complaints may be submitted by Montclair State University students, faculty, or administrators by submitting a detailed report of the incident(s). Incident reports filed by the Office of Residence Life and by University Police are considered complaints. The complainant and/or written complaint do not constitute formal discipline charges. The Conduct Officer responding to the complaint will determine which campus policies and University policy may have been violated after reviewing the complaint thoroughly, which may include interviewing alleged witnesses and/or victims. A student will be charged any applicable conduct violations by electronic delivery notice within five (5) business days of determination of alleged violations by University administrators.

### **1. Gatekeeping**

The submission of a written or verbal complaint to a University employee does not constitute formal discipline charges. The University reserves the right to review every complaint thoroughly to determine which campus University policy(s) may have been violated. This review may include interviewing alleged witnesses and/or victims. An unsubstantiated complaint that does not result in conduct charges will not be forwarded to a hearing process. A student will be notified of any University charge of violations applicable by electronic delivery notice within five (5) business day of determination of alleged violations by University administrators.

### **2. Interim Suspension**

The University Director of Student Conduct or a designee may suspend a student from the University for an interim period pending disciplinary proceedings. The interim suspension will become immediately effective without prior notice whenever the University Director of Student Conduct or a designee determines there is a reasonable basis to conclude that the continued presence of the student at the University poses a significant risk and high probability of substantial harm or substantial disruption to others, or to property, which cannot be addressed through reasonable accommodations requested by the student. Interim Suspensions will exclude the student from being on campus or participating in any University activity, including academic work, unless otherwise notified.

A student suspended on an interim basis will be given an opportunity to appear personally before the University Director of Student Conduct or a designee within three business days in order to discuss the following issues only:

1. The reliability of the information concerning the student's alleged misconduct, including the matter of their identity.
2. Whether the conduct and surrounding circumstances reasonably indicate that the continued presence of the student on University premises poses a significant risk and high probability of substantial harm or substantial disruption to others, or to property, which cannot be addressed through reasonable accommodations requested by the student. The University Director of Student Conduct or designee may affirm or alter the decision to suspend on an interim basis based on such discussion. If the decision is affirmed, a University Hearing will proceed as expeditiously as possible. Any student placed on interim suspension will be given an opportunity to appear at a formal Hearing within ten business days of being placed on suspension or as soon as practical after the

respondent is prepared to participate in a Hearing. Violations of this Student Conduct Code that are motivated by prejudice toward a person or group because of factors such as race, religion, ethnicity, disability, national origin, age, gender, or sexual orientation may be assessed an enhanced sanction.

**3. Notice:**

All notices will be delivered via the student's University electronic mail and delivery will be considered confirmed upon the message being sent to the student's account. It is the responsibility of the student to check his/her University email. Notice will include the violations with which a student has been charged and a meeting time to review the complaint and options for resolution. Students should note that disciplinary action may be taken, and sanctions, and applicable stipulations, may be enacted, if they fail to attend the initial conduct conference or any subsequent hearing option. Students who fail to appear after proper notice will be deemed to have pled not responsible to the charges pending against them. In cases where a student charged does not appear after proper notice or does not provide justifiable reason for non-appearance, the hearing will take place as scheduled and a decision rendered in the absence of the accused. In this circumstance, a student may not appeal under the ground that they have additional information that was not available at the time of the hearing. In cases involving Title IX related accusations, notice will include the allegations that form the basis of the violation, the identity of the parties involved, the precise conduct involved, the date and location of the incidents involved, the violations with which a student has been charged and a meeting time to review the complaint and options for resolution

**4. Conduct Conference Meeting:**

After receiving a complaint and interviewing the complainant and, if necessary, witnesses, the Conduct Officer will schedule a mandatory meeting with the respondent(s) within five (5) business days of the electronic delivery of the violation notice. The respondent is the student accused of violating campus policies and community standards. The purposes of this conduct conference meeting with the respondent are to review the complaint, discuss the process and to discuss options for resolving the complaint. Opportunity for the accused student to present their account is offered within the hearing options. Only the accused student and the conduct officer will attend this meeting. The complaint will then be resolved in one of the following manners: 1) Mediation, 2) University Administrative Hearing, or 3) University Panel Hearing. Only the student may request the rescheduling of the meeting and requests by third parties, including counsel, will not be reviewed.

**5. Mediation**

The Conduct Officer may refer a matter to mediation in cases where expulsion or suspension from the University is not contemplated as a sanction and where there are no pending charges in any criminal court. Mediation is only an option when the student parties involved agree to enter into a formal mediation process through the Mediation Resource Center. (In cases where there is no agreement among the parties about seeking mediation, formal disciplinary procedures will be employed, which may result in mediation being used as a stipulation within a given outcome.) The results of a mediation conference do not become part of a student's official disciplinary record but a record is kept of the findings and agreements reached.

**6. University Administrative Hearing**

The Conduct Officer will meet with parties involved in the incident, including the complainant, the respondent, and witnesses, if necessary, and will render a decision. The respondent may choose to have an administrative hearing held immediately after their initial conduct conference. If the respondent chooses to have their administrative hearing at another time, the administrative hearing meeting must occur within three (3) business days of the initial Conduct Conference meeting. If the Conduct Officer determines that a preponderance of information indicates that the respondent is responsible for violating the Code of Student Conduct, the Conduct Officer will then issue appropriate sanctions, and applicable stipulations, to the respondent. The outcome will be electronically delivered within five (5) business days of the University Administrative Hearing. The respondent may appeal the Conduct Officer's decision. Instructions on filing an appeal will be provided to the student in writing within the outcome letter. The respondent will also be informed in writing if the Conduct Office determines that the student is not responsible for any violation of the Code of Student Conduct. Administrative Hearings will be attended only by the conduct officer, the accused student, and the University Advisor, if one is chosen.

6a. **University Administrative Hearing Process:**

Should the incident be determined by an administrative hearing, the process will be as follows:

1. The Hearing Officer will begin the recording and enter their name into the record followed by the accused student entering their own name for the recording. If the accused student has University Advisor present, they will be asked to enter their name and a statement regarding their role will be entered into the recording.
2. The Hearing Officer will request the student to enter their plea of responsibility or not responsible respective to the individual charges.
3. The Hearing Officer will offer the student the opportunity to share their account of the incident with any supporting documentation. The student also has the choice not to share any account or documentation.
4. The Hearing Officer has the ability to ask questions to the accused student. The accused student may choose to answer or not answer any questions posed.
5. The Hearing Officer will offer the student the opportunity to make a final statement and will enter a final statement of their own prior to conclusion of the hearing.
6. Decisions may be appealed according to the standards outlined in Section VIII.

7. **University Panel Hearing**

After meeting with parties involved in the incident(s) that gave rise to the complaint, including both the complainant and respondent, and witnesses as necessary and appropriate, the Conduct Officer may determine that the information and testimony should be considered by a hearing panel. The Conduct Officer may thus refer the discipline matter to the next scheduled hearing panel or to a hearing panel that will be scheduled within the next five (5) business days. While the University will attempt to make reasonable efforts to take into consideration the academic scheduling of any student, the University may remove a student from classes or convene a Panel during a class period.\*In cases where sanctioning could result in Expulsion, the University may recommend the University Panel Hearing option to allow for the greatest scope of the incident to be reviewed. Additionally, all cases involving alleged harassment or dating, relationship or sexual misconduct and/or violence, will be heard by a University Panel.

7a. **University Hearing Panel Procedure:**

Should the complaint be forwarded to a hearing panel for adjudication, the following steps will be followed:

1. The Director of Student Conduct, or a designee, will review the complaint form with the respondent, may ask the respondent to submit a written response, and provide the names of any witnesses to the alleged incident.
2. The Director of Student Conduct, or a designee, will ask the respondent to provide the names of any University advisors or attorneys who will attend the hearing. The respondent may have one University advisor or one attorney present.
3. The Director of Student Conduct, or a designee, will provide copies of the complaint, response (if one is provided), list of witnesses and a summary of the preliminary investigation to the members of the hearing panel. It will be the responsibility of the respondent to provide copies to their witnesses and attorney/University Advisor.
4. The Hearing Panel will typically consist of two faculty members, two administrators, and three students (graduate or undergraduate.) Quorum will consist of one faculty member, one administrator, and one student. There will be a chairperson for each hearing. The membership of the panel will consist of individuals who have received appropriate training on process and related topics, with availability of individuals determining composition of the panel. It may be appropriate for certain discipline matters involving alleged violations of a particularly sensitive or confidential nature to be heard by faculty or



administrators only. The complainant, respondent, or University representative presenting the charges may request the case be heard by a faculty/administrator panel. The University Director of Student Conduct or designee will determine if it is appropriate for a case to be heard in such a manner. If the University Director of Student Conduct or designee determines it is appropriate, a three-person faculty/administrator panel will be convened.

5. At the hearing, members of the hearing body will ask the respondent and his/her advisor or attorney to remain in the room throughout the hearing. Witnesses will be called one at a time, and excused at the conclusion of their testimony.
6. It will be the sole responsibility of members of the hearing body to question the respondent, the University representative presenting the charges, and their witnesses. Advisors and attorneys, if any, may only offer advice on whether to answer any question posed to the respondent during the hearing and may not address the hearing body.
7. At the conclusion of all testimony, the respondent and the University representative presenting the charges will be permitted four minutes to amplify or clarify any aspect of the information or testimony presented.
8. If the respondent has a record of prior infractions of University policy, this information will be made available to the members of the hearing body, but only if the student is found responsible at the hearing for violating the code of student conduct. This information may then be used to assist in the determination of sanctions.
9. All matters upon which a decision may be based must be introduced into information at the hearing. The decision of the Hearing Panel will be based solely upon such information.
10. The hearing will not be considered a formal legalistic trial. Rather, the Hearing Panel will examine all relevant facts and circumstances at the hearing and will come to a decision based upon a preponderance of the information.
11. Formal rules of evidence applicable to civil and criminal cases will not be applicable to the proceedings.
12. It will be the initial responsibility of the Chair of the Hearing Panel to ensure the relevancy of testimony.
13. Student's time to present their account, question participants, and enter final statements are subject to constraints as deemed appropriate by the Chair of the Panel.
14. Hearings are regarded as confidential and are closed to all but the respondent, the advisor or attorney for the respondent, the University representative presenting the charges, the hearing panelists, and to any witnesses called to provide testimony.
15. The Chair of the hearing panel will send notice of the decision of the Hearing Panel, via Director of Student Conduct or designee, in writing electronically to the respondent within five business days of the hearing.
16. Decisions may be appealed according to the standards outlined in Section VIII.
17. Decisions of a University Hearing Panel will be determined by a majority vote of the participating members.
18. In cases, involving Sexual Assault, Sexual Misconduct, Dating Violence, or Sexual Harassment, the decision of the University Panel shall be sent to both parties. The decision will summarize the relevant exculpatory and inculpatory evidence, and findings of credibility will be noted. Credibility findings may not be made for any person that fails to appear for the hearing.

**7b. University Panel Hearing Process:** Should the incident be determined by a panel hearing, the process would be as follows; however, this format is subject to change by University discretion):

1. The Hearing Chair will begin the hearing, which is recorded, by entering their name into the recording. The remaining Panel Hearing members will enter their names and roles, followed by the accused student, their attorney/University advisor if present and permitted, ending with the University representative.

2. The Hearing Chair will request the student to enter their plea of responsible or not responsible respective to the individual charges.
3. The Hearing Chair will offer the University representative the opportunity to present documentation/reports/etc... regarding the alleged incident.
4. The Accused student is offered the opportunity to ask questions about the reports, however questions must be submitted in writing to the Hearing Chair for review and relevancy prior to being asked by the Hearing Chair.
5. The Panel members are offered the opportunity to verbally ask questions of the University representative.
6. The University representative is allowed to call in witnesses and ask questions of them. The accused is offered the same opportunity as provided in asking questions of the University representative, followed by the Panel members.
7. When the University representative has concluded, the accused student is offered the opportunity to present their account and evidence.
8. The accused student is able to present eyewitnesses and may ask questions verbally of said witnesses.
9. The University representative, followed by the Panel members, are permitted to ask questions of the witnesses. Witnesses are required to answer the questions and be honest in their responses. Failure to do so may result in their removal from the process and disciplinary action.
10. The University representative, followed by the Panel members, is allowed to verbally ask questions of the accused student, however, the accused student is allowed to not answer.
11. The ability to make final statements is offered to participants before concluding the panel hearing.

#### **8. Delay of Conduct Process**

The purpose of the student conduct system is to help students understand and accept their responsibilities as members of this academic community. For many students, this may be one of the first opportunities they have to learn to advocate for themselves and to navigate through an administrative process. The conduct process is designed to be a growth enriching and developmental process, not a legal one.

Students are expected to speak for themselves due to the educational nature of the conduct process. In keeping with this goal, only the student may request the rescheduling of the process and requests by third parties, including counsel, will not be reviewed. After the process has been delayed once, the student is expected to attend the next scheduled meeting.

Written applications setting forth good cause may be made to the University Director of Student Conduct or designee by either party for a postponement of the scheduled hearing or conduct meeting. Except in emergency situations, no application for a postponement will be considered unless received at least three business days before the scheduled conduct meeting date. The University Director of Student Conduct or designee will determine if it is appropriate to delay the process. The process will be rescheduled at a student's request only once.

Withdrawal from the University does not terminate the disciplinary proceeding. A student's failure to appear at scheduled meeting without just cause may result in a finding of responsibility against the absent student for a violation of this code and imposition of disciplinary sanctions based upon the information presented. An interim sanction may be imposed if an accused student requests a delay of the process.

#### **C. Academic Dishonesty Procedure**

Students are subject to disciplinary action for reasons of academic dishonesty. The faculty plays an integral role in the process for resolving academic dishonesty complaints.

1. The faculty member having the suspicion or information of dishonesty should first discuss the matter with the student(s) involved.
2. The faculty member should then discuss the situation with the chairperson of the department. On a departmental level, one of the following may be chosen:

(a) For a student who seems mistaken in practice rather than guilty of intention, or in the case that seems to warrant leniency, the faculty member, consulting with the chairperson, may do any of the following which they deem appropriate:

- (i) Grade the work under question "zero" or "failing"
- (ii) Allow the student to demonstrate that s/he can fulfill an assignment through her/his own honest effort.

(b) For an offense which seems to be a clear case of cheating or which does not seem to warrant leniency, the faculty member, after consulting with the chairperson, may do either or both of the following:

- (i) Grade the work under question "zero" or "failing"
- (ii) Assign a grade of "F" for the course. (Students should have the right to remain in a class during the term of any course until or unless suspension from the class or the University is imposed.)

(c) In cases where an "F" grade is assigned for academic dishonesty, the faculty should immediately transmit a Request to Post a grade of "F" on the student's record. The request should be sent to Ms. Cardrienne McDonald Sarin, Assistant Registrar. Said action will prevail over any prior or upcoming withdrawal action on the student's behalf regarding the specific class.

3) The faculty member may contact the University Director of Student Conduct to report the case of academic dishonesty. Faculty members are directed to submit reports via the following site: [https://montclair-advocate.symplicity.com/public\\_report/](https://montclair-advocate.symplicity.com/public_report/). The student's name will be placed on the University Academic Dishonesty List and the student will receive formal notice of said action in writing electronically. If a prior academic dishonesty record exists, the case will be referred to the Director for adjudication. If the student does not have any prior academic violation, then the current violation may be handled on the Departmental level. The Director or his/her designee will follow the procedures for adjudication of non-academic cases.

On a conduct level, faculty members have the following options:

- (i) Have the student's name added to the official listing of students who have committed academic dishonesty. The reported student will receive notice of this act with recommended resources. No other formal conduct action taken. This option, if selected by faculty, will not be recorded in the student's academic record as a finding of a violation of the Code and imposition of discipline.
- (ii) Have the student's name added to the official listing of students who have committed academic dishonesty and refer the case to the University Director of Student Conduct for adjudication. The Faculty member may be called to testify in the conduct process.
- (iii) With either conduct option, the Faculty will submit copies of documentation and/or detailed reports to the University Director of Student Conduct for official records.

#### D. Removal from Class

If an instructor determines that the behavior of a student is substantially disruptive to others or substantially interferes with his/her ability to conduct a class, the instructor may require that the student leave the class for the remainder of that class session. The instructor may call University Police to escort the student from class in the event the student refuses to leave.

1. After the above stated action has been taken, the instructor will inform the student that a mediation conference must be scheduled before the next class session. If the problem is resolved in this mediation conference, the student will return to class. The student may not attend the class again until the student has met with the professor for mediation or to review expectations for classroom conduct. It is the student's responsibility to make up the work missed. The mediation conference will be attended by the faculty and the student in question; and may have a third-party of the University present as well.
2. If the mediation conference does not result in a mutually acceptable solution, the faculty member will file a complaint with the Director of Student Conduct (if no complaint is filed, the student may return to class.) The student will remain suspended from class pending the outcome of the resolution of this charge. If the student is found not to have violated the Code, the student will return to class and the student must make arrangements for missed work to be made up. If the student is found to have violated the Code, sanctions will be imposed in accordance with the Code of Student Conduct. If the student does not return to the class (as a sanction or by choice), a Withdrawal (WD) will be administratively assigned for the course on the student's transcript.

NOTE: If a faculty member judges the behavior of a student poses a significant risk to the health and safety and high probability of harm to others, the faculty member should seek assistance from University Police. In such a case, the appropriate University official will take appropriate disciplinary action to resolve the matter. No mediation conference will be scheduled in such cases.

## VIII. Appeals

If a student believes one or more of the following conditions exist, they may file a typed appeal:

1. There was substantial and prejudicial failure to follow procedures.
2. The student can provide information and/or documentation that the sanction was unduly severe.
3. The student has additional information that was not available at the time of the hearing.

A) Appeals of sanctions issued by Hearing Officers, including Community Directors, must be made in writing to the University Director of Student Conduct or designee. Appeals must be submitted within three business days of the date the letter of sanctions is electronically delivered. Late appeals will not be considered. Appeals must be submitted electronically via University email to the designated appellate officer.

B) Appeals of sanctions issued by Panel Hearings or by the University Director of Student Conduct must be made in writing to the Dean of Students or designee. Appeals must be submitted within three business days of the date the letter of sanctions is electronically delivered. Late appeals will not be considered. Appeals must be submitted via University email to the designated appellate officer.

C) Notice of the outcome of appeals will be electronically sent via University email within five business days of receipt of the written letter of appeal.

D) In most cases, students who are appealing their sanction(s) will not be subject to the imposed sanction until their appeal has been resolved. In cases that involve substantial threat, the University Director of Student Conduct maintains the right to continue or initiate an interim suspension, pending the outcome of the appeal.

E) Appeals may only be submitted by the student who is appealing. The University Code of Conduct has been developed to promote student growth in an educational process and as such, appeals will not be accepted by any third parties, including but

not limited to legal counsel representing the student.

F) The decision rendered by the appeal officer is considered the final outcome and is not subject to appeal.

G) Appeal outcomes can 1) affirm the original decision and support sanction and corresponding stipulations; 2) affirm the original decision but modify the original sanction and/or stipulations; or 3) oppose the original decision and determine a new outcome, which may include the dismissal of charges. A modification of an original sanction will never be greater than the original sanction imposed. The granting of an appeal does not ensure removal of all violations or disciplinary outcomes.

[View Student Policies](#)

[View Student Development Campus Life Policies](#)

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## MontclairStateUniversity

1 Normal Ave.  
Montclair, NJ 07043

973-655-4000

Campus Map



### POLICIES AND PROCEDURES

Academic  
Employee  
Finance  
Student  
Technology  
University

### MONTCLAIR STATE

About Montclair  
Academics  
Admissions  
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Athletics  
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Giving

### POLICIES

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